

General Terms & Conditions of Sale & Delivery

I. Scope

These General Terms & Conditions of Sale & Delivery shall apply to all agreements reached with the Purchaser on deliveries and other services, including any made at any future date. The regulations included in General Terms of Business which are contradictory to the following directions are inoperative. In addition, the contractual provisions shall be interpreted in accordance with the Incoterms as currently amended.

II. Quotations, Closing

- Our quotations are not binding, unless expressly stipulated otherwise.
- The contract shall be brought about upon our sending our final confirmation of order by fax or post, with scope of delivery and services being determined by the content thereof. Provisional confirmations of order shall only be binding on the Purchaser in that deletions, and alterations are no longer possible after it has been received. The conclusion of contract is subject to the grant of a cover note by a goods credit insurance company. Provided that the grant of a cover note by a goods credit insurance company is cancelled or reduced beneath the selling price agreed upon after conclusion of contract or prior to delivery of goods the Purchaser has to make available on our demand an ulterior security prior to delivery otherwise we shall be entitled to refuse the delivery of the goods and to withdraw from the contract.
- Oral agreements and supplements, in particular warranties and other details involving delivery times and quality of materials, must be confirmed by us in writing.
- Our obligation to deliver shall be subject to our being fully and punctually supplied ourselves, unless we are responsible for supplies not being made or for any delay in this respect. Imported goods shall moreover be subject to an import license being granted by the competent authorities.

III. Prices

- The decisive price shall be that given in the confirmation of order plus any surcharges stipulated therein. However, we are entitled to charge the prices applicable on the delivery date if more than 4 months have lapsed between closing and the agreed delivery date and if the factors underlying the calculation have increased. As a matter of principle no deductions may be made from any prices charged, unless otherwise stipulated in writing, gross for net.
- If, between the dates of closing and delivery of the goods to the Purchaser, freight costs, taxes, customs and excise duties, or any other supplementary fees increase, or if such costs, taxes or fees are introduced anew, or especially if special (anti-dumping) levies are imposed on importing the goods, we shall be entitled - even in cases of deliveries made freight and/or duties paid - to charge such proven extra costs to the Purchaser.

IV. Delivery Periods and Dates

- Any delivery periods and dates given shall be without obligation, unless such particulars are specifically noted as being binding in our confirmation of order. They shall be subject to our being correctly and punctually supplied ourselves by our own suppliers. Binding delivery periods shall commence on receipt of our confirmation of order. They shall be deemed met provided the goods leave our supplier's distribution point within said delivery period or on the given delivery date. Moreover, they shall be deemed met once notice of readiness to dispatch has been given, provided any failure for the goods to be dispatched is not due to any fault of our own or of our suppliers. Bindingly promised delivery periods and dates shall be altered by any amounts of time by which the Purchaser is in default with obligations towards us, plus a reasonable initial period.
- Force majeure* shall entitle us - even when in default - to postpone the delivery by the duration of the impediment plus a reasonable initial period, or to withdraw from the contract either in whole or in part as regards the part still not performed. Strikes, lockouts, mobilisation, war, blockades, import and export bans, shortages of raw materials or fuel, fire, traffic blocks, operational or transport disruptions, and any other circumstances beyond our control - no matter whether they happen to us or to our own supplier - which render delivery either impossible or so difficult as it to be unreasonable to expect us to perform, shall be deemed equivalent to *force majeure*. If our supplier claims *force majeure*, we may furnish proof of such *force majeure* by submitting confirmation such as is customary in the country of export. We shall inform the Purchaser without delay of any such *force majeure*. He may then call on us to state whether we intend to withdraw or to deliver within a reasonable period, which in the case of import transactions must run for at least three months as from the end of the quarter. If we fail to make any statement, the Purchaser may withdraw from the contract.
- If we are in default with delivery, the Purchaser may withdraw from the contract on expiry of a reasonable period of grace laid down by us. In the case of import transactions, this period of grace must run for at least three months as from the end of the quarter, unless the goods have been dispatched by the end of such period or notice has been given that they are ready for dispatch.
- The Purchaser may only claim compensation for non-performance in the event of delay or non-delivery caused by intent or gross negligence. In the event of delay or non-delivery caused by slight negligence, all claims to compensation shall be excluded.

V. Part Deliveries, Excess and Short Deliveries

- We are entitled to make part deliveries and excess or short deliveries to the extent usual in trade of $\pm 10\%$ of the agreed amount.

VI. Payment; Setoff

- Irrespective of the date on which the goods are received, payment shall be made by the 15th of the month following the date of delivery ex works or of notice of completion - unless other parities and dates have been agreed - without any discount and without any amounts being retained or deducted from the price of the goods. Payment shall be made in such manner that the amount needed to settle the invoice is available to us by the due date at the latest.
- By way of payment we shall accept rediscountable bills of exchange, tax duly paid, if this has expressly been agreed. Credit notes for bills of exchange and cheques shall be issued subject to receipt of payment minus charges, the value date being that on which the equivalent value of such means of payment is put at our disposal.
- If the Purchaser is in default of payment, we shall be entitled to charge interest at the respective bank rate for overdrafts, which interest shall however be at least 8% over and above the EZB discount rate. The right is reserved to claim further compensation for default.
- If the terms of payment are not observed, or if any circumstances come to our knowledge which - on due assessment of the commercial circumstances - we consider detrimental to the Purchaser's credit worthiness, all our claims shall fall due for immediate payment, irrespective of the currency of any bills of exchange which may have been received and credited. We shall then also be entitled to make any outstanding deliveries against advance payment only and, on expiry of a reasonable period of grace, to withdraw from the contract or demand compensation for non-performance. Apart from this we may prohibit resale of the goods supplied, and at the Purchaser's expense demand return or transfer of constructive possession of the goods delivered, and revoke the power to collect under Section VII (5) below. In the instances given here we shall be entitled to enter the Purchaser's premises, to confiscate the goods delivered, and to realise the best possible price for same by selling them on the open market and offsetting the proceeds against the sales price still outstanding minus any costs incurred.
- We are entitled to offset against any debts owed us by the Purchaser, and against any claims which may be due to the Purchaser from us for whatsoever reason. This shall also apply if it has been agreed that one party make payments in cash whilst the other pay with bills of exchange, or if it has been agreed that other services be rendered on account of performance. If required, these arrangements shall only apply to the balance of account. If the amounts receivable are due on different dates, our claims shall fall due on the date on which our liability falls due at the latest and shall be settled on said value date.
- The Purchaser shall not be entitled to retain payments or offset counterclaims unless we have acknowledged undisputedly the claims underlying such retention or setoff, or unless such claims have become *res judicata*.

VII. Reservation of Title

- All goods supplied shall remain our property (goods subject to retention of title) until all claims, no matter what their legal basis, have been satisfied, including any claims arising or caused at any future date, also under contracts reached on this or any later date. This shall also apply if goods subject to retention of title payments are made towards specifically named claims.
- The processing and working of goods subject to retention of title shall be done for us as manufacturer as defined in Civil Code s. 950, without us thus being obligated in any way. The processed goods shall be deemed goods subject to retention of title as defined in Clause 1 above. If the Purchaser processes, combines or mixes the goods subject to retention of title with any other goods, we shall be entitled to co-ownership in the new objects in the ratio of the amount invoiced for the goods subject to retention of title in proportion to the amount invoiced for the other goods used. In the event of our ownership extinguishing due to combination or mixture, the Purchaser here and now already assigns to us - up to the amount of the invoice for the goods subject to retention of title - the ownership rights to which he is entitled in the new stock or objects, and he shall preserve same for us free of charge. The co-ownership rights thus created shall be deemed goods subject to retention of title as defined in Clause 1 above.
- The Purchaser may only sell the goods subject to retention of title in normal business transactions and in accordance with his normal terms of business and as long as he is not in default, provided that the claims created by resale are assigned to us as defined in Clauses 4 to 6 below. He shall not be entitled to dispose in any other manner over the goods subject to retention of title.
- The Purchaser already here and now assigns to us any claims created by resale of the goods subject to retention of title. Such claims shall serve as security to the same extent as the goods subject to retention of title. If the Purchaser sells the goods subject to retention of title along with other goods not sold by us, the assignment of such claims created by said resale shall only be up to the resale value of the goods subject to retention of title sold in each case. In the event of goods in which we have co-ownership rights pursuant to Clause 2 above being sold, such claims shall be assigned up to the value of these co-ownership rights.
- The Purchaser is entitled to collect receivables from any resale until such time as we may revoke such entitlement at any time. We shall only exercise such revocation right in the cases given in Section VI (4) above. The Purchaser is only entitled to assign claims, whereby this shall also include factoring, with our prior written consent. If we so request he shall be under obligation to immediately notify his customers of the assignment made to us, unless we do so ourselves, and to provide us with the information and records needed for such collection.
- If we assert our retention of title, this shall only be deemed withdrawal from the contract if we expressly state as much in writing. The Purchaser's right to own the goods subject to retention of title shall extinguish if he fails to perform his obligations hereunder or under another agreement.

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- The Purchaser must inform us without delay of any pledging or other impairments by third parties.
- If the value of existing security exceeds the secured claims by more than 10%, we shall be under obligation - if so required by the Purchaser - to release securities at our option.
- The Purchaser is obliged to handle with care the goods; especially the Purchaser is obliged to insure the goods on his own costs against damage by fire, water and theft in a sufficient manner to the reinstatement value and furthermore to store the goods protected against humidity and with adequate temperatures.
- In the event of garnishments or other interventions of third parties the Purchaser has to immediately notify us in written so that we are able to file suit acc. to § 771 ZPO. As far as the third party is not in a position to reimburse to us the judicial and extrajudicial costs of a suit acc. § 771 ZPO the Purchaser shall be liable for the loss occurred to us.

VIII. Standards of Quality; Units of Weight and Measurement

- Quality and measurements shall be in accordance with DIN standards or with data specifications for materials, unless foreign standards, qualities or descriptions of goods are agreed in writing. If no DIN standards or data specifications for materials exist, the relevant European standards shall apply, lacking which the usual trading standards shall apply.
- For weight measurements the weighing carried out by us or our suppliers shall apply. At the Purchaser's request, weight shall be proved by furnishing the weight slip; if goods are delivered by ship, their weight shall be proved by furnishing the official certificate of measurement; if delivered by lorry, it shall be proved by furnishing a weight card from officially calibrated scales. Deviations in weight of up to 2% of the total quantity charged, such as is common practice in steel trading in the Federal Republic of Germany, shall not be affected by this. Should there be any reason to assume that material has been lost or damaged during transport, a report on the actual situation drawn up by the Deutsche Bahn AG or an impartial inspection company is to be arranged immediately.
- We may also determine weights theoretically in accordance with DIN without weighing, using the weight tables customary in steel trading in the Federal Republic of Germany.

IX. Acceptance of Delivery; Inspection Certificates

- Material shall only be accepted and/or inspected if the relevant material standards provide for such acceptance or inspection and if this is expressly agreed. Material, acceptance of which is compulsory, shall be inspected by the manufacturing works and supplied along with a factory's certificate of approval.
- Acceptance and inspection shall be done at the Purchaser's expense in the supplier's works. If the Purchaser fails to carry out acceptance or inspection without delay upon notice being given of the material being ready for such acceptance, we shall be entitled to dispatch the material without it having been accepted or inspected, or to store it at the Purchaser's expense and risk, and to charge him as if delivery had been effected.
- On provision of the original factory certificate stipulating the quality ordered, the material shall be deemed supplied in accordance with the conditions.
- Inspection certificates required by the Purchaser shall immediately be made available to the Purchaser on receipt. The Purchaser is not entitled to retain payments even if he does not yet have the required inspection certificates.

X. Dispatch; Passing of Risk

- We shall determine route, means of dispatch and carrier, unless otherwise agreed in writing. If notice is given in accordance with the contract that goods are ready for dispatch, such goods must be called up without delay; otherwise we shall be entitled at our option either to dispatch them or to store them at our own discretion, both at the Purchaser's expense and risk, and to charge for them immediately.
- If, due to no fault of our own, transportation along the intended route or to the intended place becomes impossible at the intended time, we shall be entitled to supply using another route or to another place; the Purchaser shall bear the extra costs thus incurred. He shall be given opportunity beforehand to comment.
- The material shall be delivered unpacked and without any anti-corrosive protection, unless otherwise agreed in writing. In as far as is possible we shall see to packaging, protection and/or transportation aids at the Purchaser's expense and in line with our experience. Packaging and low value protection and transportation aids shall not be taken back. Valuable protection and transportation aids, factory-owned loading devices, such as e.g. coil frames, are to be collected at the place of delivery or storage and returned in accordance with our instructions - at no expense to ourselves - to the supplying works or to the carrier under contract to us.
- When the material is handed over to a carrier, or when it leaves the storage place or the supplying works at the latest, the risk - including that of the material being confiscated - shall pass on to the Purchaser in all transactions.

XI. Notice of Defects; Guarantee

- Only those external and internal faults in the goods we supply which interfere to more than a minor degree by their being processed or used in a manner befitting the type of material and form of product shall be deemed defects.
- Notice of defects - including omission of warranted characteristics - must be given by letter, fax or cable without delay on their discovery, and any processing must cease immediately. Complaints about obvious defects shall be excluded 14 days after receipt of the goods at their destination.
- Unobvious defects must be notified within a preclusion period of 6 weeks after delivery.
- If immediate and justified notice of defects is given we shall take back defective goods and deliver perfect goods in their place, in lieu of which we are entitled - whilst reasonably safeguarding the Purchaser's interests - to refund the reduction in value or remedy said defects.
- If we fail to perform our obligation to make substitute delivery or to remedy the defects, or if we fail to perform any such obligation in accordance with the contract, then the Purchaser shall be entitled to reduce the purchase price or to rescind the contract.
- If the Purchaser fails to immediately give us an opportunity to convince ourselves of the identity of the goods and of the defect therein, and if in particular he is unable to immediately make available on demand the goods about which he has complained or samples thereof, his claims based on defects shall lapse. The material about which he has complained is to be kept available for the supplier's works free of charge until such time as the latter acknowledges that the complaint is well founded.
- All further claims are excluded; this applies in particular to claims to compensation for damages which have not occurred on the goods themselves (consequential harm caused by defects). This exclusion shall not apply in cases where our liability is imperative because warranted characteristics are lacking.
- In the case of goods which have been sold as declassified material - e.g. so-called seconds - the Purchaser shall not be entitled to any claims based on possible defects.
- The above provisions shall also apply to deliveries of goods other than those laid down in the contract.
- All claims based on defects shall become statute-barred one year after the goods have been received at their destination.

XII. General Limitation of Liability

- We shall be liable to pay compensation for violating contractual or non-contractual obligations only in the event of intent or gross negligence. Compensation claims are limited on the negative interest. The enforcement of compensation is excluded in case of impossibility.
- Each and every claim against us, irrespective of its legal basis, shall become statute-barred one year after closing at the latest, unless the limitation periods laid down by law are shorter.

XIII. Venue, Governing Law

- Venue for all disputes shall be Munich. We shall also have the right to sue the Purchaser at the place where he has his registered offices. All legal relations between ourselves and the Purchaser shall be exclusively governed by the laws on legal relations between domestic parties applicable at the place where we have our registered offices.

XIV. Inoperativeness of Individual Provisions

- In the event of any of these provisions being inoperative, we shall be entitled to replace such inoperative provisions with valid arrangements having an economic effect corresponding as nearly as possible to that of the invalid provisions.